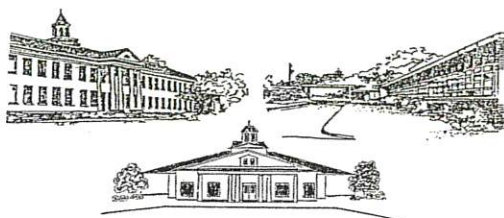


Andalusia City Board of Education

Board Members

Amy Dugger, President
Sammy Glover, Vice President
David Bryant
Parrish King
David McCalman



Superintendent

Daniel Shakespeare

Posted: May 16, 2023

INVITATION TO BID

Drink Bid

To Whom It May Concern:

The Andalusia City Board of Education is accepting sealed bids for drinks. Your company is hereby invited to submit a Bid Quotation on the items and quantity, as described further in the written invitation and specifications. Please return the bid form pages with your official bid.

Sealed bids must be received at Andalusia City Board of Education, 1201 C. C. Baker Avenue, Andalusia, Alabama, 36421, prior to **9:30 a.m. CST on Tuesday, June 6, 2023**. Bids will be publicly opened at that time. Please mark the outside of the envelope with **“Proposal on Beverage Products, Opening Date: June 6, 2023, 9:30am.”**

The low bid will be presented to the Andalusia City Board of Education at the next meeting for consideration and award. Notification will be provided to the successful low bidder only following board approval.

The Andalusia City Board of Education reserves the right to reject any and/or all bids, to waive technicalities or informalities; and to award the bid to other than the high bidder if cause can be documented, and in accordance with the requirements of Title 39 Code Of Alabama.

Questions may be addressed to:

Shan Burkhardt, CNP Director
and/or
Daniel Shakespeare, Superintendent
Andalusia City Board of Education
1201 C. C. Baker Avenue
Andalusia, Alabama 36421

Phone: 334-222-3186

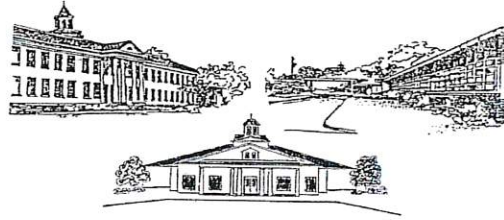
Daniel Shakespeare, Superintendent

The Andalusia City Schools System does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boys Scouts and other designated youth groups. The following persons have been designated to handle inquiries regarding the non-discriminatory policies: Lindsey Cross, Title IX and 504 Coordinator, 1201 C.C. Baker Ave., Andalusia, AL 36421, 334-222-3186, crossl@andalusia.k12.al.us and Jenifer Earnest, Federal Programs Coordinator, 1201 C.C. Baker Ave., Andalusia, AL 36421, 334-222-3186, earnestj@andalusia.k12.al.us

Andalusia City Board of Education

Board Members

Amy Dugger, President
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David Bryant
Parrish King
David McCalman



Superintendent

Dr. Daniel Shakespeare

TO: Prospective Vendors

FROM: Shan Burkhardt

DATE: 5/16/2023

Request for Proposal

Sealed proposals will be received by the Andalusia City Board of Education, Child Nutrition Program, 1201 CC Baker Avenue, Andalusia, Alabama, 36421, or hand delivered to the Andalusia City Schools Child Nutrition Department, 1201 CC Baker Avenue, Andalusia, Alabama until **9:30 a.m. on June 6, 2023**, at which time they will be opened and read for the furnishing of Drink products to the Andalusia City Schools. Proposal period shall begin August 1, 2023 and extend through July 31, 2024 **with the option to renew for an additional 4 years if both the vendor and Andalusia City Schools agree**. Vendors will be obligated to provide the items quoted and award to them is for the duration of the proposal period only.

Vendors must fill in all blank spaces for each item proposal on the "Request for Quotation". Failure to do so will result in the classification of that particular proposal as nonrespondent.

Attached are proposal documents for purchasing items for use in the Andalusia City School System:

1. Instruction to Vendors
2. List of Schools
3. Proposal
4. Specifications
5. Request for Quote
6. Debarment Form
7. School Calendar
8. E-Verify
9. NON-Discrimination Statement

ANDALUSIA CITY BOARD OF EDUCATION
ANDALUSIA CITY CHILD NUTRITION

INSTRUCTIONS TO VENDORS

Documents #3, (Proposal Form), #5(Request Quotation), and #6 (Debarment Form) must be returned in a sealed opaque envelope clearly marked "Proposal on Beverage Products" with date and time of proposal opening, and #8 (E-Verify).

The Andalusia City Board of Education reserves the right to accept the lowest proposal on all items combined from one vendor.

The Andalusia City Board of Education reserves the right to reject any and/or all proposal and to waive formalities. If you have any questions concerning this proposal contract, please call Shan Burkhardt, Child Nutrition Program Director, Andalusia City Board of Education at telephone number 334-222-6379.

ANDALUSIA CITY SCHOOLS

Andalusia High School Cafeteria
701 Third Avenue
Andalusia, AL 36420
Phone # 334-222-6379

DOCUMENT # 3
PROPOSAL FORM

DATE: May 16, 2023

To: ANDALUSIA CITY BOARD OF EDUCATION
1201 CC BAKER AVENUE
ANDALUSIA, ALABAMA 36421

THE VENDOR DECLARES THAT HE HAS EXAMINED THE PROPOSAL DOCUMENTS AND FULLY UNDERSTANDS ALL CONDITIONS OF SAME. IN COMPLIANCE WITH YOUR ADVERTISEMENT FOR PROPSALS DATED _____ AND SUBJECT TO ALL CONDITIONS THEREOF, THE UNDERSIGNED _____ IS A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF ALABAMA.

VENDOR

ADDRESS OF VENDOR

CITY STATE ZIP CODE

TELEPHONE NUMBER

AUTHORIZED SIGNATURE

PROPOSAL PERIOD: AUGUST 1, 2023 THROUGH JULY 31, 2024. PROPOSALS MUST BE RECEIVED BY THE ANDALUSIA CITY SCHOOL'S CHILD NUTRITION PROGRAM DEPARTMENT BY **9:30 a.m. on JUNE 6, 2023.**

ANDALUSIA CITY BOARD OF EDUCATION
VENDORS ARE REQUESTED TO RETAIN THESE SPECIFICATIONS,
CONDITIONS AND INSTRUCTIONS FOR FUTURE REFERENCE

I. General Information

- A. These instructions, conditions, and specifications are in addition to and are a part of the instructions and conditions that appear on the printed Andalusia City Board of Education "Request for Quotation" form, and shall govern the selections of the items listed.
- B. All proposals shall be returned on the form provided by the Andalusia City Board of Education. Any item that in any way does not conform to the minimum specifications shall be so indicated on the proposal form.
- C. The proposal form must be completed in full and signed. If not signed, it will be considered as non-responsive to the proposal request.

II. METHOD OF AWARD

- A. The Andalusia City Schools reserve the right to accept the lowest proposal on all items combined from one vendor.
- B. The award will be made to the lowest responsible vendor meeting requirements and specifications. Vendors will be responsible for furnishing all product requirements requested on the proposal, to the individual schools within Andalusia as follows:

Andalusia High School Cafeteria, Andalusia, AL

- C. In the event the low vendor refuses to accept the entire requirements in a category without deviation, if items are available, the proposal will then be considered non-respondent.
- D. A refusal by the first low proposal may result in the proposals being awarded to the next lowest vendor meeting requirements and specifications.
- E. The Andalusia City Schools reserve the right to accept or reject any or all proposals.
- F. The award will be made in accordance with Alabama State Bid Law Act No. 217, Special Session, 1967.
- G. The decision of the Andalusia City Schools will be final.

III. Type of Contract

Requirements type contract.

IV. Contract Period

The contract period shall be August 1, 2023 through July 31, 2024 with the option to renew for an additional 4 years if both the vendor and Andalusia City Schools agree.

V. Pricing

A. Propose only one brand that meets all specifications. If two brands are proposed, the highest price will be used in tabulating proposal.

B. *Prices are to be quoted by the "Unit" indicated on the face of the "Request for Quotation" form*

C. Prices are not to exceed four (4) decimal places.

D. If the successful vendor receives discount on volume purchased or special discounts, this price is to be reflected to Andalusia City Schools.

E. The vendor offers and agrees to furnish any or all items upon which prices are quoted, at the price set opposite each item, in the quantity as stated on the proposal; delivered to the various schools in amounts ordered.

E. Andalusia City Schools reserve the privilege to request a proposal on any items if price fluctuations are beyond amount anticipated or negotiations are unsatisfactory to the Andalusia City Schools.

G. In order to support any negotiated price increases; records of low vendors are to be available and open for examination upon request to Andalusia City Schools.

VI. Quantity

A. The quantities of items specified herein are based upon estimated use. Because quantities listed are estimated, they may be increased or decreased according to needs of various schools.

VII. Year of Pack

All items shall be from the latest pack.

VIII. Laws

A. All edible grocery and frozen food products furnished to the Andalusia City Schools shall comply with the late standards and regulations established by Federal Laws, including the Federal Food, Drug, and Cosmetic Act; and the United States Department of Agriculture, for the grade specified.

B. In the event that the instructions, conditions, and specifications of the Andalusia City Schools, exceed any of the previously mentioned agencies, the instructions, conditions, and specifications of Andalusia City Schools shall have precedence.

IX. Inspection

- A. Two (2) samples of any product shall be furnished to the Andalusia City Schools on request for quality test.
- B. The successful vendor will furnish Andalusia City Schools, United States Department of Agriculture certificates or United States Department of the Interior certificates of grade on request when quality is questioned.
 - 1. Any expenses incurred in obtaining grade certifications and/or conformance to specifications is the responsibility of the vendor.

X. Guarantee

- A. The successful vendor must guarantee merchandise against “swells” and/or defects for a period of six (6) months after delivery.

XI. Labeling

- A. All cases, boxes, cans, packages, etc., must bear commercial labels.
 - 1. All cartons, packages, cans, containers, etc., shall be clearly marked on the outside as to specific contents.
- B. Brand names must be shown on the “Request for Quotation” form.
- C. Any product that asks for specifications of the pack or if the pack is different from the specifications mentioned, please note this on your “Request for Quotation” form or the item will be excluded from the vendors quotations.

XII. Orders

- A. For the benefit of the Andalusia City Schools and the successful vendor, the method of ordering these products will be determined after the proposal is awarded.

XIII. Deliveries

- A. Shipments are to be made to each school in the Andalusia City School System (See attached list of schools). Deliveries are to be made Monday through Friday between the hours of 7:30 a.m. and 2:00 p.m. Deliveries and service will be required in most schools up to 4 times per week. The vending machine will be expected to be stocked with the product and a key left with the school lunch room manager. **All monies will be handled by the manager and not by the vending company.** Vendors should set up a regular delivery schedule so that the cafeteria managers may know when to expect delivery. Deliveries are not to be made during the lunch hours unless absolutely necessary and with the cafeteria manager’s permission.

- B. If, at any time, the vendor makes a delivery that is not in accordance with the instructions, conditions, and specifications set forth by the Andalusia City Schools, without the consent of Andalusia City Schools, such delivery shall be refused and shall constitute grounds for the removal of this vendor from Andalusia City Schools mailing list.

XIV. Back Orders

If a vendor cannot supply a school with an item he has on proposal, the vendor should immediately notify the Child Nutrition Program Director, at 222-6379 for Andalusia City Schools. Failure by a vendor to supply items for which proposals were awarded shall constitute authority to purchase on the open market to replace the item not delivered. On such purchases, the vendor agrees to reimburse the Board of Education for excess cost above the proposal price.

XV. Cancellations

No items are to be canceled without prior consent of the Child Nutrition Program Director.

XVI. Substitutions

No Substitutions (items, brands, grades, etc.,) are to be made by Vendor without specific consent of the Child Nutrition Program Director.

XVII Default

- A. If at any time the vendor makes a delivery that is not in accordance with the instructions, conditions, and specifications set forth by the Andalusia City Schools without the consent of said Andalusia City Schools Child Nutrition Program Director, such delivery will constitute grounds for the cancellation of the contract and/or the removal of this vendor from the Andalusia Schools mailing list for not less than one (1) year.
- B. Any vendor issuing any kind of gift, stamps, premiums, or other type of favor to any employee of the Andalusia City Board of Education shall constitute grounds for the cancellation of the contract; and shall be excluded from the mailing list of the Andalusia City Board of Education.

XVIII. Billing

- A. At the time of delivery to the schools, two copies of the vendor's invoice shall be left with the cafeteria manager.
 - 1. If there is an error or discrepancy, the manager and delivery person shall note same on all copies of the invoice and sign notation.

2. In the event that errors are later discovered (after delivery person has left), a credit or debit (as the case may be) is to be issued against the invoice as it was presented to the cafeteria manager. The credit or debit shall show the original invoice number, date and error being corrected on the face of the said credit or debit. The credit or debit shall be made in duplicate with one copy sent to the cafeteria manager and the other copy sent to the Child Nutrition Program Director .
- B. All invoices are to clearly indicate the school name and the account number, such as Lunchroom, Athletic Department, Band, or other organization within the school.
- B. Bills will be paid monthly by the 15th of the month by the Bookkeeper, Andalusia City Child Nutrition Program, Andalusia City Schools from invoices unless reimbursement from the government has not been received by the Andalusia Board of Education, Andalusia City Child Nutrition Program.
- D. Statements shall be figured on the last working day of each month and mailed to the Andalusia City School Child Nutrition Program, 1201 CC Baker Avenue, Andalusia, Alabama 36421.

XIX. Samples

- A. Samples and/or labels must be available within three days of request, and if they are not available, it shall be the Board's option to determine whether or not the proposal submitted will be considered.

Product Specification

Non-Carbonated Beverages

Fruit Juice Drink – Product must be 100% juice and must not exceed 12 oz.
All products must meet state and federal wellness guidelines.

Bottled Water – 12 oz and 20 oz. Flavored and unflavored (vitamin water zero or low calorie approved equal)

Coconut Water – 12 oz (Body Armour Lyte or approved low calorie equal)

Sports Drinks – 12 oz (Gatorade Zero or approved low calorie equal)

Sweet and unsweet tea-12 oz (Milo's decaffeinated sweet/unsweet tea with 60 calories or less or approved equal)

Proposals will include maintenance of locking cooler drink box, installed and serviced a **minimum of two times a week and more if necessary to keep the machines fully stocked.** The product is to be loaded into the machines and a key left with the lunchroom manger. **The manager, and not the vending company, will handle all monies from the machine.**

Two copies of the original invoice will be left with the manager at the time of delivery.

VENDING MACHINE MUST BE GLASS FRONT AND SHOULD NOT DISPLAY ANY CARBONATED BEVERAGE ADVERTISEMENTS. IT CAN INCLUDE ITEMS SUCH AS WATER AND SPORT DRINKS

Document #5
 Andalusia City Board of Education
 Beverage Proposal 2023-2024
 Request for Quotation Form

May 16, 2023

The Undersigned Offers the following Bid Prices, Terms, and Delivery as per Specifications: **See Section V, Pricing, Item B for instructions.**

<i>Item: Fruit Drink</i>	<i>Estimated</i>	<i>Unit</i>	<i>Extended Price</i>
<i>(100% Juice)</i>	<i>Price</i>		
Up to 12 oz. size	<i>Usage</i>		
Product Name _____	_____	_____	\$ _____
Product Name _____	_____	_____	\$ _____
Product Name _____	_____	_____	\$ _____
 <i>Item: Water, Plain 20 oz.</i>			
Brand _____	_____	_____	\$ _____
 <i>Item: Water, Plain 12 oz.</i>			
Brand _____	_____	_____	\$ _____
 <i>Item: Coconut Water, 12 oz.</i>			
Brand _____	_____	_____	\$ _____
 <i>Item: Sports Drinks 12 oz.</i>			
Brand _____	_____	_____	\$ _____
 <i>Item: Sweet Tea 12 oz with and without lemon</i>			
Brand _____	_____	_____	\$ _____
Bottom Line Extended Price:			\$ _____

Company: _____
 Address: _____

Telephone: _____
 Name of individual to be contacted concerning questions on bid:

Signature: _____
 Title: _____

U.S. DEPARTMENT OF AGRICULTURE

**Certification Regarding Debarment, Suspension, Ineligibility
and Voluntary Exclusion - Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name Andalusia City Board of Education
PR/Award Number or Project Name _____

Name(s) and Title(s) of Authorized Representative(s) _____

Signature(s) _____ Date _____
Form AD-10-48 (1/92)

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Vendor List

Coca-Cola Bottling Company United
Beryl Jackson
4919 Westport Blvd
Montgomery, Al 36105

Pepsi
Robert Brash
638 South Forest Avenue
Luverne, Al 36049

Section 7
School Holidays

Teacher Workdays/In-service/Institute	August 1-3
First Day of School	August 7
Virtual Day /Labor Day Holiday	September 1/September 4
Fall Break/Columbus Day Holiday	October 6-9
Veteran's Day/Virtual Day	November 9-10
Thanksgiving Holidays	November 20-24
Christmas Holidays	December 20-Jan 8
In-service Day/Truck Day	January 3
Students Return from Christmas	January 8
King/Lee Holiday	January 15
Virtual Day	February 16
President's Day Holiday	February 19
Spring Break	March 25-29
Virtual Day/Spring Holiday	April 26-29
Last Day for Students	May 23

DOCUMENT 8

E-Verify

Alabama laws (see Title 31, Chapter 13 of the Code of Alabama 1975) require that, as a condition for the award of a contract by a school board to a business entity or employer with one or more employees working in Alabama, the business entity or employer must provide an affidavit and documentation of enrollment in the E-Verify program. During the performance of the contract, the business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. An Affidavit of Alabama Immigration Law Compliance and the signature page from the contractor's E-Verify Memorandum of Understanding must be included with the bid. If you do not believe these requirements are applicable to your entity, include an explanation justifying such exemption. An entity can obtain the E-Verify Memorandum of Understanding upon completion in the E-Verify enrollment process located at the federal web site www.uscis.gov/everify. The Alabama Department of Homeland Security (<http://immigration.alabama.gov>) has also established an E-Verify employer agent account for any business entity or employer with 25 or fewer employees that will provide a participating business entity or employer with the required documentation of enrollment in the E-Verify program. An Employer Identification (EIN), also known as a Federal Tax Identification Number, is required to enroll in E-Verify or to establish an E-Verify employer agent account.

Please return the enclosed form with your proposal.

Section 9

REQUIRED FEDERAL PROVISIONS FOR PROCUREMENT IN CNP PROGRAMS

(These provisions must be met in bid document, if applicable)

Title 2: Grants and Agreements

PART 200-UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart F-Audit Requirements Appendix II to Part 200-Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- A. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- B. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- C. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4 (b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity", and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- D. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or a subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- E. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less

than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

F. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, COntacts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

G. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution COntrol Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p.235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

I. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of COngress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

J. See §200.322 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the items exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Title 7: Agriculture

PART 210-NATIONAL SCHOOL LUNCH PROGRAM

Subpart E-State Agency and School Food Authority Responsibilities §210.21 Procurement.

(d) Buy American-

1. Definition of domestic commodity or product. In this paragraph (d), the term 'domestic commodity or product' means-
 - (i) An agricultural commodity that is produced in the United States; and
 - (ii) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

(2) Requirement.

(i) In general. Subject to paragraph (d)(2)(i) of this section, the Department shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

(ii) Limitations. Paragraph (d)(2)(i) of this section shall apply only to-

A. A school food authority located in the contiguous United States;
and

B. A purchase of domestic commodity or product for the school lunch program under this part.

(f) Cost reimbursable contracts-

(1) Required provisions. The school food authority must include the following provisions in all cost reimbursable contracts, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts:

(i) Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;

(ii) (A) The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or

(B) The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;

(iii) The contractor's determination of its allowable costs must be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;

(iv) The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the State agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;

(v) The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and

(vi) The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.

(2) Prohibited expenditures. No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost reimbursable contract that fails to include the requirements of this section, nor may any expenditure be made from the nonprofit school food service account that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs.

(g) Geographic preference.

1. A school food authority participating in the Program, as well as State agencies making purchases on behalf of such school food authorities, may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied;
2. For the purpose of applying the optional geographic procurement preference in paragraph (g)(1) of this section, "unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

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1. Mail: U.S.Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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